

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 2234 of 2007(N)

PETITIONER:

V.V.ELIZABETH, W/O.DEVASSY,
PARAPPATTU HOUSE, NETHAJI ROAD,
PALARIVATTOM, KOCHI.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.RENJITH B.MARAR
SRI.DILEEP P.PILLAI
SMT.LAKSHMI.N.KAIMAL
SRI.V.SHYAMOHAN

RESPONDENTS:

1. HDFC BANK,
HDFC HOUSE, P.B.NO.1667, KOCHI-15,
REPRESENTED BY THE BRANCH MANAGER.
2. SAJU EAPEN,
MUTTATHUKARA HOUSE,
LIG - 383, GANDHI NAGAR,
KOCHI-20.
3. SILFY SAJU EAPEN,
W/O SAJU EAPEN, MUTTATHUKARA HOUSE,
LIG- 383, GANDHI NAGAR, KOCHI- 20.
4. NAVEEN, AGED 33 YEARS,
S/O DEVASY, PARAPPADAN HOUSE,
7/14 THRIKKAKARA PANCHAYAT, KAKKANADU.

R1 BY ADV. SRI.K.K.CHANDRAN PILLAI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX IN WPC.2234/07

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE SPECIAL POWER OF ATTORNEY EXECUTED BETWEEN THE PETITIONER AND THE 2ND RESPONDENT DATED 26.4.2001.

EXT.P2: TRUE COPY OF THE AGREEMENT DATED 26.4.2001.

EXT.P3: TRUE COPY OF the NOTICE DTD.21.7.2004 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P4: TRUE COPY OF THE NOTICE DTD.8.11.2006 RECEIVED BY THE PETITIONER ON 22.11.2006.

EXT.P5: TRUE COPY OF THE APPLICATION OF THE PETITIONER DATED 5.1.2007.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.2234 OF 2007

Dated this the 1st day of March, 2007

JUDGMENT

This writ petition has been admitted on 19.1.2007 and an interim order was granted to stay the impugned proceedings against them for three weeks on the petitioner remitting Rupees One Lakh. Such remittance is made on 1.2.2007.

2. Heard learned counsel for the petitioner and learned for the first respondent on the basis of instructions as well the counter affidavit, which is stated to have been filed.

3. Respondents 2 and 3 availed a housing loan from the first respondent. They instituted power of attorney in favour of the petitioner to transfer the property in question to the 4th respondent, who is none other than the son of the petitioner. There appears to be an agreement of sale between respondents 2 and 3, the original owners, and the 4th respondent with the junction of the petitioner as the power of attorney holder of

respondents 2 and 3, and respondents 2 and 3 are now stated to be not traced.

4. The first respondent has made publication of notice of the securitisation proceedings under the SARFAESI Act and the notice issued to respondents 2 and 3 has returned. In the aforesaid circumstances, it is directed that if the petitioner pays the entire amounts due to the first respondent on or before 28.3.2007, further proceedings shall be dropped and the title deeds in relation to the property shall be released by the first respondent to the petitioner on the petitioner filing a further undertaking to indemnify the first respondent in case of any claim by respondents 2 and 3. It is further directed that the petitioner or the 4th respondent shall not alienate the property for a further period of seven years.

The writ petition is disposed of with the above directions.

THOTTATHIL B.RADHAKRISHNAN
Judge

k kb.